The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____.

Ex parte ANDERS WAESTERLID

_____

Appeal No. 2004-1713
Application 09/514,657

_____

ON BRIEF

_____

Before BARRETT, OWENS and GROSS, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from a nonfinal rejection of claims 1-7 and 19-25.[1] Claim 8 stands objected to as being dependent from a rejected base claim but allowable if rewritten in independent form. Claim 9 has been canceled. Claims 10-18 have been allowed.

_____

[1] In an appeal in which claims have been at least twice rejected, the board has jurisdiction as discussed in *Ex parte Lemoine*, 46 USPQ2d 1432 (Bd. Pat. App. & Int. 1995).

1

THE INVENTION

The appellant claims a method and mobile communication device for sending and receiving status information among members of an affinity group.[2] Claim 1, which claims the method, is illustrative:

1.   A communication method implemented in a communication network for allowing members of an affinity group to send status information to and receive status information from other members of said affinity group, said communication method comprising:

   a.   forming an affinity group containing two or more members;

   b.   storing, in each individual members' communication device, status information concerning each other member of said affinity group;

   c.   when the status of any member in said affinity group changes, sending a status update message from said member whose status has changed to said each other member of said affinity group;

   d.   receiving said status update messages concerning each other member of said affinity group at said each other member's communication device; and

---

[2] The appellant states (specification, page 8) that status information "may include, but is not limited to, the following status items:
   1) current state of the member[']s communication device 100,
   2) current activity (e.g. work, meeting, lunch, traveling, of[f] duty, etc.), and
   3) current location."
The appellant also states (specification, page 1) that affinity groups are "groups of individuals who share a common interest or affiliation (e.g. families, co-workers, those who share a common avocation or interest, such as tennis or music, and members of a club)."

2

e.   updating said status information in said each other
member's communication device when a status update
message concerning said any member is received.

THE REFERENCES

Perkins   5,412,654   May   2, 1995

Borgstahl et al. (Borgstahl)   WO 98/17032   Apr. 23, 1998
    (PCT application)

J. Rosenberg and H. Schulzrinne (Rosenberg), "SIP for Presence",
Internet Engr. Task Force Internet Draft XP-002173451, 1-21
(Nov. 13, 1998).

THE REJECTION

Claims 1-7 and 19-25 stand rejected under 35 U.S.C. § 103 as
being unpatentable over Borgstahl in view of Rosenberg and
Perkins.

OPINION

We affirm the rejection of claims 1, 7, 19 and 25, and
reverse the rejection of claims 2-6 and 20-24.

The appellant states that the claims stand or fall in the
following groups: 1) claims 1 and 7; 2) claims 2 and 3;
3) claim 4; 4) claim 5; 5) claim 6, 6) claims 19 and 25;
7) claims 20 and 21; 8) claim 22; 9) claim 23; and 10) claim 24
(brief, page 3). We therefore limit our discussion of the claims
for which the rejection is affirmed to one claim to which each

rejection applies, i.e., claims 1 and 19. *See In re Ochiai*, 71

F.3d 1565, 1566 n.2, 37 USPQ2d 1127, 1129 n.2 (Fed. Cir. 1995);

37 CFR § 1.192(c)(7)(1997). Moreover, because the appellant only

argues that claim 19 is patentable for reasons similar to those

set forth with respect to claim 1 (brief, pages 20-21), we

further limit our discussion of the subject matter of claims 1

and 19 to claim 1.

Claim 1

Perkins discloses a method for link-layer routing of packets

between mobile stations of a wireless data communications network

(col. 1, lines 8-10; col. 2, lines 33-35). Perkins uses the

Defense Data Network as an architectural diagram for illustrating

the protocol layers that include the link-layer (col. 3,

lines 22-54). Hence, Perkins would have fairly suggested, to one

of ordinary skill in the art, applying the method to an affinity

group comprised of persons affiliated with defense. Perkins uses

the following technique for routing the packets (col. 2,

lines 35-46):

> Packets are transmitted between the stations of the
> network by using routing tables which are stored at
> each station of the network. Each routing table that
> is stored in each of the stations provides a list of
> each station that is accessible from itself and the
> number of hops necessary to reach each accessible
> station. To maintain these tables in a dynamically

varying topology, link-layer packets are transmitted
from each of the stations to update the tables. These
link-layer packets indicate stations that are
accessible from each station and the number of hops
necessary to reach these accessible stations.

Each of a mobile station's neighbors, upon receipt of a routing

table update from the mobile station, updates its routing table

such that each mobile station has a complete description of the

current topology of interconnections between the mobile stations

(col. 6, lines 58-65). Because each routing table update

broadcast provides the mobile station's neighbors with the

location of the mobile station, the update broadcast is a status

update message as that term is used by the appellant.[3]

The routing table updates generally are periodic (col. 2,

lines 47-55; col. 3, line 66 - col. 4, line 4; col. 4, lines 63-

66; col. 6, lines 58-59; col. 7, lines 12-14). However, when,

due to a mobile station's movement, the number of hops that a

packet must jump before reaching its destination exceeds a

maximum allowed value, modified routes immediately are broadcast

from the mobile station to the mobile station's neighbors

(col. 7, lines 14-32). Hence, Perkins would have fairly

suggested, to one of ordinary skill in the art, sending a status

---

[3] The appellant states that current location is a status
item (specification, page 8).

message update from the mobile station to each other member of an

affinity group when the status (location) of the mobile station

changes.

The appellant argues (reply brief, page 8):

Perkins teaches the broadcast of routing table
information specifically for use in the creation of an
ad-hoc network. This is evidenced in column 31 of
Perkins, lines 37-39, which reveals, "The new routing
algorithm of the invention was <u>particularly developed</u>
<u>for enabling the creation of 'ad-hoc networks'</u>"
(emphasis added). The communication of routing
information specifically for creating a network says
nothing about the sending [of] a status update message
from the member whose status has changed to each of the
other members in the group, *and Perkins never suggests*
that it does.

The portion of Perkins cited by the appellant discloses that the

routing algorithm makes possible the creation of an ad-hoc

network. That portion does not mean that Perkins' method does

nothing more than create a network. As discussed above, Perkins

sends a status (location) update from a mobile station to its

neighbors when a change in the location of the mobile station

causes the number of hops that a packet must jump before reaching

its destination to exceed a maximum allowed value.

The appellant argues that "Perkins also fails to teach,

'storing, in each individual members' [sic] communication device,

status information concerning each other member of said affinity

group'" (reply brief, page 9). When Perkins' mobile stations

receive routing tables, they store the addresses of the

transmitters of the routing tables (col. 5, lines 28-30). Hence,

Perkins' mobile stations store status (location) information

concerning each transmitter of routing tables.

We therefore conclude that the inventions claimed in the

appellant's claims 1 and 19 would have been obvious to one of

ordinary skill in the art over the applied prior art.

Accordingly, we affirm the rejection of those claims and claims 7

and 25 that stand or fall with, respectively, claims 1 and 19.

Claims 2-6 and 20-24

The examiner has not established that Perkins discloses

1) status information that is a plurality of status items as

required by the appellant's claim 2 and its dependent claims 3-6,

and claim 20 and its dependent claim 21, 2) means for selecting

status items from a list of available status items that are

reported to each other member of the affinity group as required

by the appellant's claim 22, or 3) means for designating a period

during which status updates are enabled or suppressed as required

by, respectively, the appellant's claims 23 and 24. Nor has the

examiner established that the applied prior art would have fairly

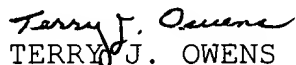suggested those claim features to one of ordinary skill in the

art. Consequently, we reverse the rejection of claims 2-6 and 20-24.

DECISION

The rejection of claims 1-7 and 19-25 under 35 U.S.C. § 103 over Borgstahl in view of Rosenberg and Perkins is affirmed as to claims 1, 7, 19 and 25, and reversed as to claims 2-6 and 20-24.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

LEE E. BARRETT   )
Administrative Patent Judge   )
)
)
)
TERRY J. OWENS   ) BOARD OF PATENT
Administrative Patent Judge   )
)   APPEALS AND
)
) INTERFERENCES
ANITA PELLMAN GROSS   )
Administrative Patent Judge   )

TJO/ki

8

David E. Bennett
Coats & Bennett
P.O. Box 5
Raleigh, NC 27602